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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,953	03/25/2004	Russell Berger	S032 P00864-US1	6353

3017 7590 04/07/2006

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EXAMINER

SHAHER, RICKY D

ART UNIT PAPER NUMBER

2872

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,953

Applicant(s)

BERGER, RUSSELL

Examiner

Ricky D. Shafer

Art Unit

2872



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-13 is/are pending in the application.
- 4a) Of the above claim(s) 4-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election of species "E", depicted by Fig. 3 in the reply filed on 01/17/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 4-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01/17/2006.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3 and 10, "the first strap" and "the second strap" each lack proper antecedent basis and/or nexus with respect to the left and right fastening straps.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al ('384) in view of Monahan et al ('708).

To the extent the claims are definite, Nielsen et al discloses a mirror assembly for viewing a child sitting in a rear-facing child seat (76) positioned on a vehicle seat (74) having a seat back, with a front surface and a head rest, with a front surface, being interconnected to each other by at least one support bar (86) positioning the front surface of the seat back and the front surface of the head rest apart from one another with a gap there between, comprising a base plate [(18) or (18')] having a left edge and a right edge and a rear surface, the rear surface of the base plate being in communication with the front surface of the seat back and the front surface of the head rest (see figures 7A and 7B), wherein the base plate is inherently capable of spanning across the gap between the seat back and the head rest by positioning and strapping the base plate lower about the head rest and/or by lowering the support bar of the head, rest is lowered to it's retracted position removably connected to the head rest (80), a mirror housing (14) adjustably connected to the base plate (see Fig. 5), a mirror (12) attached to the mirror housing, a left fastening strap (84) having an inner end being connected to the left edge of the base plate via element 19b and a right fastening strap (84) having an inner end being connected to the right edge of the base plate via element 19a (see Fig. 7A) or alternatively, a left fastening strap (85b) having an inner end being connected to the left edge of the base plate through one or more mounting brackets/slots (not shown) on the back of the base plate and a right fastening strap (85b) having an inner end being connected to the right edge of the base plate through one or more mounting brackets/slots (not shown) on the back of the base plate (see Fig. 7B), wherein the fastening strap inherently includes a middle portion (not shown) which interconnects the left strap to the right strap, note figures 2, 3B, 4, 5, 7A and 7B along with the associated description

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thereof, except for explicitly stating that the outer ends of the left and right fastening straps being removably connected to each other, by connector means.

Monahan et al et al teaches it is well known to use male and female connectors having a slotted buckle in the same field of endeavor for the purpose of adjustably fastening one end of a strap to another end of a strap so as to attach a mirror to an object.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the outer ends of the left and right fastening straps of Nielsen et al to include male and female connectors, as taught by Monahan et al, in order to obtain a secured adjustable fastening assembly which can be easily removed and tightened.

As to the limitations of claim 10, although not explicitly shown, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the one or more brackets of the base of Nielson et al to include slots for receiving each of the straps routed there through, as is well known in the art, in order to provide for a snug adjustable fastening mechanism.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al ('384) in view of Monahan et al ('708) as applied to claims 1, 3 and 10-12 above, and further in view of Lumbra et al ('347).

To the extent the claim is definite, Nielsen et al in view of Monahan et al discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the connector means comprises fastening hooks and loops.

Lumbra et al teaches it is well known to use hooks and loops (VELCRO) fastening connectors in the same field of endeavor for the purpose of fastening one end of a strap to another end of a strap so as to attach a mirror to an object.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the outer ends of the left and right fastening straps of Nielsen et al to include hooks and loops (VELCRO) fastening connectors, as taught by Lumbra et al, in order for rapid removal of said mirror when not needed.

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen et al ('384) in view of Monahan et al ('708).

Nielsen et al discloses that the mirror and mirror housing may include a variety of different geometric shapes, as such circular (see column 4, lines 52-59), except for explicitly stating that the base plate includes a square geometrical shape.

It would have been obvious to modify the shape of the base plate of Nielson et al to include any one of the numerous geometric shapes already specified by Nielson et al in column 4, lines 52-59, such as a square, in order to obtain an aesthetic (ornamental) appealing mirror assembly, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of one of ordinary skill in the art. Note In re Dailey et al , 149 USPQ 47 and In re Seid, 73 USPQ 431.

As to the limitations of claim 9, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the base of Nielson et al to include a foam pad, as is well known in numerous analogous arts, in order to protect the head rest from possible damage and/or marring.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

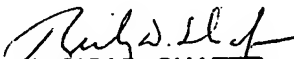
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS // April 03, 2006


RICKY D. SHAFER
PATENT EXAMINER
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